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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,463	10/07/2003	Daniel Leonard Floding	27644.22	5165

32300 7590 11/24/2004

BRIGGS AND MORGAN, P.A.  
2200 IDS CENTER  
MINNEAPOLIS, MN 55402

EXAMINER
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PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/680,463

Applicant(s)

FLODING ET AL.

Examiner

Kenneth E Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

3. The inventions are distinct, each from the other because the inventions of groups I-VIII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the cutter that pierces and then slices of group I could be employed with 40 teeth, instead of the 60 teeth of group II, and conversely, the cutter of group II could be used with punching (non-slicing) teeth, in lieu of the slicing teeth of group I. See MPEP § 806.05(d).

4. There is an excessive burden on the office to examine all of these inventions together, as shown by their search. See MPEP 808.02(C). For example, the cutter of group I would be searched in 83/660 along with a text search for slicing. Group II would not be searched as above, but instead would be searched in 83/678 along with a text search for "60". All the other groups also have there own unique searches.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different search and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 3,19 and 28, drawn to a cutter that pierces and then slices.
- II. Claims 6,21 and 29, drawn to a cutter having 60 teeth.
- III. Claims 7,22 and 30, drawn to a cutter with cut-outs in the cutter wheel.
- IV. Claims 8,23 and 31, drawn to a cutter having a CD-shaped blade.
- V. Claims 9,24 and 32, drawn to a cutter having a removable spindle.
- VI. Claims 11,26 and 33, drawn to a cutter utilizing a razor blade.
- VII. Claims 12 and 13, drawn to a cutter having a sitting knife actuator.
- VIII. Claim 14, drawn to a cutter having the slitter knife being in-line.
- IX. Claims 16 and 17, drawn to a cutter having a movable rotating wheel.

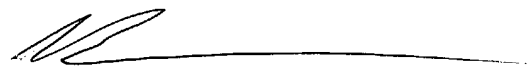
2. Claims 1,2,4,5,10,15,18,20,25 and 27 will be examined with the elected invention. Claims 1,18 and 27 link the inventions of groups I-IX. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claims, claims 1,18 and 27. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

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6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp  
November 18, 2004



KENNETH E. PETERSON  
PRIMARY EXAMINER